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Subject: 3402(r) withholding

Under the section 3402(r) regulation, a tribe can use "any procedure . . . provided that the amount of tax deducted and withheld is substantially the same as it would be using the tables . . . " in Pub. 15A. See text of Reg below.

Reg. 31.3402(r)-1(a)(2):

(2) Withholding tables. Except as provided in paragraph (a)(4) of this section, the amount of a payment's proportionate share of the annualized tax shall be determined under the applicable table provided by the Commissioner.

Reg. 31.3402(r)-1(a)(4):

(4) Alternate withholding procedures--(i) In general. Any procedure for determining the amount to be deducted and withheld under section 3402(r) may be used, provided that the amount of tax deducted and withheld is substantially the same as it would be using the tables provided by the Commissioner under paragraph (a)(2) of this section. At the election of an Indian tribe, the amount to be deducted and withheld under section 3402(r) shall be determined in accordance with this alternate procedure.